

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 MCT-01 SSM-03 IO-13 AID-05 NEAE-00 /078 W
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P R 071334Z APR 77
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC PRIORITY 2534
INFO AMCONSUL BOMBAY
AMCONSUL CALCUTTA
AMCONSUL MADRAS
AMEMBASSY COLOMBO
AMEMBASSY DACCA
AMEMBASSY ISLAMABAD
AMEMBASSY KATHMANDU
CINCPAC

C O N F I D E N T I A L NEW DELHI 5028

CINCPAC FOR POLAD

E.O. 11652: GDS
TAGS: PINT, IN
SUBJECT: GOVT REBUFFED IN ITS EFFORT TO QUICKLY AMEND THE
CONSTITUTION

1. IN KEEPING WITH THE JANTA PARTY'S PLEDGE TO REPEAL VARIOUS
"BLACK LAWS" OF THE EMERGENCY PERIOD, THE DESAI GOVT ON APRIL 7
INTRODUCED THE 43RD CONSTITUTION AMENDMENT BILL. THE MAJOR
PROVISIONS OF THE BILL WOULD: (A) REMOVE THE PROVISION OF THE
42ND AMENDMENT WHICH EXTENDED THE TERM OF THE LOK SABHA
AND STATE ASSEMBLIES FROM FIVE TO SIX YEARS; (B) REPEAL ARTICLE
329 (A) OF THE CONSTITUTION (INSERTED BY THE 39TH AMENDMENT)
WHICH REMOVED THE AUTHORITY OF THE COURTS FROM HEARING PETITIONS
CHALLENGING THE ELECTIONS OF THE PRIME MINISTER AND THE SPEAKER
OF THE LOK SABHA; AND (C) REPEAL ARTICLE 31 (D) OF THE CON-
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STITUTION (INSERTED BY THE 42ND AMENDMENT) WHICH EMPOWERED PAR-
LIAMENT TO ENACT LAWS TO BAN "ANTI-NATIONAL ACTIVITIES AND
ASSOCIATIONS". INTRODUCING THE BILL IN THE LOK SABHA,
LAW MINISTER SHANTI BHUSHAN SAID THAT THE PREVIOUS GOVT DID NOT
HAVE THE PEOPLE'S MANDATE TO EXTEND THE LOK SABHA AND STATE
ASSEMBLY TERMS TO SIX YEARS. AMID ANGRY SHOUTS FROM THE CONGRESS
BENCHES, HE SAID THAT THE RECENT ELECTIONS HAD "CLEARLY

DEMONSTRATED"THE PEOPLE'S PREFERENCE FOR THE CHANCE TO EXPRESS THEIR VIEWS AT THE POLLS MORE FREQUENTLY THAN EVERY SIX YEARS. ON THE REPEAL OF ARTICLE 329 (A), BHUSHAN STATED THAT THERE WAS NO NEED FOR Q "SPECIAL AUTHORITY" FOR TRYING ELECTION PETITIONS IN THE CASE OF THE PRIME MINISTER AND THE SPEAKER. REGARDING THE REPEAL OF ARTICLE 31 (D), THE LAW MINISTER SAID THAT THE POWER TO LEGISLATE A BAN ON "ANTI-NATIONAL" ACTIVITIES HAD AROUSED "SEVERE CRITICISM" LAST YEAR; HE OBSERVED THAT THE ARTICLE WAS SO VAGUELY-WORDED THAT EVEN A LEGITIMATE AGITATION COULD BE CHARACTERIZED AS AN ANTI-NATIONAL ACTIVITY. IN ADDITION, ADEQUATE LAWS ALREADY EXISTED TO DEAL WITH UNLAWFUL ACTIVITIES.

2. THE PROVISION TO RESTORE THE FIVE YEAR TERMS OF THE LOK SABHA AND THE STATE ASSEMBLIES ATTRACTED THE MOST ATTENTION DURING THE DEBATE ON INTRODUCING THE AMENDMENT BILL. SINCE ALL STATE ASSEMBLIES EXCEPT THOSE IN GUJARAT, ORISSA, U.P; MANIPUR AND SIKKIM HAD BEEN ELECTED IN 1971, THE EFFECT OF THE BILL WOULD BE TO EFFECTIVELY DISSOLVE MOST OF INDIA'S STATE ASSEMBLIES THE MOMENT THE BILL WAS PASSED BY PARLIAMENT AND RECEIVED PRESIDENTIAL ASSENT. (UNLIKE THE SWEEPING 42ND AMENDMENT BILL, THE THREE PROVISIONS OF THE 43RD BILL DO NOT AFFECT CENTER-STATE RELATIONS, AND THE BILL THUS WOULD NOT HAVE TO BE RATIFIED BY TWO-THIRDS OF THE STATE ASSEMBLIES.) CONGRESS MP'S QUICKLY ALLEGED THAT THE JANATA GOVT WAS ATTEMPTING TO RUSH THE BILL THROUGH PARLIAMENT IN ORDER TO DISSOLVE STATE GOVTS, HOLD NEW ELECTIONS TO MOST STATE ASSEMBLIES, AND THUS HAVE THE OPPORTUNITY TO INSTALL PRO-JANATA GOVTS IN ENOUGH STATES TO ELECT A JANATA CANDIDATE AS PRESIDENT OF INDIA BY THIS SUMMER. CONGRESS SPOKESMAN DR. KARAN SINGH TOLD NEWSMEN THAT ALTHOUGH THE CONGRESS WOULD STAND CONFIDENTIAL

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BY ITS OFFER OF CONSTRUCTIVE COOPERATION TO THE DESAI GOVT, IT COULD NOT AGREE TO THE RETURN TO THE FIVE YEAR TERM, AN ACTION WHICH WAS INTENDED TO "SERVE THE PARTISAN INTERESTS" OF THE RULING PARTY. CONGRESS MP'S IN THE LOK SABHA OPPOSED EVEN THE MOTION TO INTRODUCE THE BILL. HOWEVER, THE AYES FROM THE GOVT BENCHES DROWNED OUT THE NOES FROM THE CONGRESS SIDE IN THE VOICE VOTE, AND LAW MINISTER BHUSHAN WAS ALLOWED TO INTRODUCE THE BILL.

3. COMMENT: A PRO-JANATA INDEPENDENT MP WHO ATTENDED THE SESSION HAS TOLD US THAT THE DEBATE OVER INTRODUCING THE AMENDMENT BILL WAS "VERY ROUGH AND STORMY". THE GOVT HAD ORIGINALLY INTENDED TO EXTEND THE CURRENT LOK SABHA SESSION THROUGH APRIL 9 IN ORDER TO PUSH THE BILL THROUGH, BUT THE STRONG OPPOSITION FROM THE CONGRESS BENCHES AND THE PROBABLE REALIZATION THAT THE BILL WOULD ENCOUNTER ROUGH SAILING IN THE CONGRESS-DOMINATED RAJYA SABHA APPARENTLY HAS INFLUENCED THE GOVT TO GIVE UP THE ATTEMPT. THE LOK SABHA WILL THUS ADJOURN APRIL 7, AND THE 43RD AMENDMENT BILL PRESUMABLY WILL NOT BE DEBATED UNTIL THE LOWER HOUSE RECONVENED FOR THE BUDGET SESSION IN MID-MAY.

A JANATA MP INFORMS US, HOWEVER, THAT THE GOVT MIGHT CALL A SPECIAL SESSION IN LATE APRIL TO PASS THE BILL.

4. DESAI'S GOVT HAS RECEIVED ITS FIRST REBUFF FROM THE CONGRESS OPPOSITION. THE CONGRESS LEADERSHIP QUICKLY PERCEIVED THE GOVT'S MOTIVE IN ATTEMPTING TO SWIFTLY PUSH THROUGH A BILL WHICH WOULD HAVE ALLOWED IT TO CAPITALIZE ON THE PRO-JANATA MOOD AND THUS CAPTURE A NUMBER OF STATE ASSEMBLIES IN TIME FOR THE PRESIDENTIAL ELECTION. CONGRESS' ADAMANT POSTURE APPARENTLY FORCED THE GOVT TO RETREAT.
SCHNEIDER

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